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IMPLEMENTATION OF THE INTERNATIONAL DRUG CONTROL TREATIES

Other matters arising under the international drug control conventions

Note by the Secretariat on Maritime Cooperation

Summary

The present note, prepared in response to Commission on Narcotic Drugs resolution 8 (XXXVIII) of 23 March 1995, reviews the action taken by the United Nations International Drug Control Programme (UNDCP) to assist States in implementing the recommendations of the Working Group on Maritime Cooperation, which were endorsed by the Commission at its thirty-eighth session. An expert group convened by UNDCP met from 27 to 29 February 1996 to consider and advise on training and other forms of technical cooperation needed to strengthen the capability of Governments to combat illicit drug trafficking by sea. The note contains a summary of the discussions and recommendations of the expert group.

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INTRODUCTION

1. The Commission on Narcotic Drugs, in its resolution 8 (XXXVIII) of 23 March 1995, endorsed the recommendations and principles contained in the report of the Working Group on Maritime Cooperation, held at Vienna from 19 to 23 September 1994 and from 20 to 24 February 1995. In the same resolution, the Commission urged Governments to consider carefully the report, including the recommendations contained therein, in implementing the provisions of article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[1] and to provide information to the Secretary-General on the implementation of those provisions. To achieve broad-based cooperation against drug trafficking by sea, Governments were invited to encourage commercial carriers and professional groups active in maritime transport to become involved in the fight against illicit drug traffic, on the basis of voluntary cooperation and memoranda of understanding at the national and international levels, as well as through training to increase the awareness of maritime transport personnel with regard to illicit drug trafficking. The international organizations concerned were encouraged to provide the United Nations International Drug Control Programme (UNDCP) with descriptions of their information systems and mechanisms, and UNDCP was invited, within available resources, to disseminate that information for use by States.

2. The Commission requested UNDCP to convene, within available resources, a meeting of experts to develop training and technical assistance programmes in maritime drug law enforcement, pursuant to the recommendations contained in paragraph 9 of the report of the Working Group. In that connection, the Commission encouraged Governments to inform UNDCP of their training and technical assistance requirements in maritime drug law enforcement, and to consider providing voluntary contributions to enable UNDCP to undertake the activities called for in resolution 8 (XXXVIII).

3. In compliance with the requests of the Commission, UNDCP transmitted the text of resolution 8 (XXXVIII) to Governments by means of a note verbale dated 12 July 1995. To facilitate preparation of the meeting of experts, Governments were invited to inform UNDCP of their training and technical assistance requirements in maritime drug law enforcement, of the availability of trainers, and of training facilities that could be used in developing the requested training programme. Twelve Governments provided information to UNDCP.

4. UNDCP began to assist States in implementing the recommendations contained in the report of the Working Group. As requested by the Commission, UNDCP convened an expert group on maritime drug law enforcement at Vienna from 27 to 29 February 1996. The experts were drawn from those States which had replied to the note verbale, and had expressed interest in participating in the meeting. As suggested in paragraph 9 of the report of the Working Group, the expert group considered the development of a training

programme introducing minimum standards and safeguards in the conduct of stopping, boardings and searches at sea, in accordance with the international law of the sea; formation of multinational mobile training teams to carry out such training programmes in States that so request; and development of training materials on techniques and methods for the inspection of vessels and establishment of timetables for their dissemination.

I. TRAINING

5. The expert group noted that a number of countries had carried out comprehensive training programmes in maritime drug law enforcement for both national trainees and for selected persons from other countries on a bilateral basis. There was, however, a need for common, standard, training curricula designed to promote a consistent international approach to maritime law enforcement. Such an approach would involve closer cooperation and greater uniformity in the implementation of measures taken pursuant to article 17 of the 1988 Convention, such as those relating to pre-boarding and boarding procedures, safety concerns, search procedures and the development and application of risk indicators for criminal activities.

6. Different approaches to training were being pursued by Governments. Courses were often structured into levels of varying length and detail, depending on the requirements of the trainees. It was important to select trainees carefully in order to achieve a multiplier effect, in particular by ensuring that trained personnel remain in their post for a minimum period. Preference might also be given to the training of trainers.

7. Training in maritime law enforcement should be expanded. The expert group observed that a small number of personnel from only a few countries were receiving training on a bilateral basis. In the case of bilateral assistance, most agencies tended to bring trainees to study in the country where the agency was established. Increased consideration was being given to sending trainers to train trainees in their own countries, thus making it possible to adapt the courses better to local conditions, and to reduce costs. Training was given in the use of equipment which varied according to requirements, ranging from highly sophisticated electronic surveillance and monitoring equipment to simple yet highly effective tools. The importance of using the equipment best suited to local conditions was emphasized.

8. Procedures for searching varied according to the type of vessel concerned, its cargo and the time and place of the search. In particular, the expert group recommended that a distinction be made between commercial vessels where illicit drugs were part of the cargo, and other vessels, such as pleasure craft or fishing vessels, which had often been refitted for drug trafficking purposes. Operational requirements, particularly the size and nature of the ship, would determine which vessels would be best boarded and searched on the high seas, which in territorial waters, and which in ports. The hazardous nature of boarding and searching, in addition to safety considerations, should be integrated into drug law enforcement training programmes.

9. The importance of targeting enforcement measures through the effective use of intelligence was stressed. In order to make the best use of limited resources, intelligence must be effectively used. Information and intelligence should be shared between competent authorities in other countries, as well as between national agencies with complementary functions in maritime drug law enforcement. The sharing of information between port authorities, the flag State, ports of transit and port of destination was of critical importance. Training in the use and application of risk profiles to maritime traffic based on intelligence and observation was to play an important role in training. Another aspect was how to encourage members of the public and the private sector to provide valuable information concerning suspicious activities which could help law enforcement agencies in targeting their efforts. Several countries had obtained valuable cooperation through memoranda of understanding between law enforcement agencies and port authorities, as well as commercial companies. Such arrangements provided valuable information to the law enforcement agencies in identifying suspicious operations, and in expediting the flow of legitimate cargo with a minimum of delay.

II. TECHNICAL ASSISTANCE

10. Maritime drug law enforcement must be conceived as an essential component of an overall, coherent, national policy for drug law enforcement. The expert group considered that States should review their current drug-control legislation to ensure that the necessary legal authority to implement article 17 of the 1988 Convention, for example the powers to stop, board and search vessels, is provided to the authorities. UNDCP is in a position to assist States, at their request, in amending their legislation or enacting new provisions to implement article 17.

11. A number of States had the capacity to undertake training in maritime drug law enforcement. There was a need for technical assistance in that field. Bilateral assistance was limited in scope and geographical coverage. Some international organizations such as the International Maritime Organization also had considerable expertise which they could make available. UNDCP was invited to act as the leading forum for the coordination of assistance to and from Governments, to serve as a catalyst for States in further developing their cooperation, facilitating communication, and aiding with the establishment of international minimum standards for boarding procedures. It was emphasized that UNDCP would seek to provide assistance to vulnerable States, in concert with other Governments, to improve their capability to interdict illicit traffic by sea. The expert group considered that with limited resources available, UNDCP should not become involved in the provision of assistance in the form of capital-intensive equipment such as vessels.

12. The expert group discussed the proposal of the Working Group regarding the formation of multinational mobile training teams to undertake training programmes in requesting States. Such teams could be conceived as a pool of training experts of different countries, from which UNDCP could draw for technical assistance activities as required. It was considered that the first priority was to assess the training capacities of States and to prepare the UNDCP training guide. That would be followed by a comprehensive evaluation of the mechanisms available to implement assistance programmes, including mobile training teams.

13. The areas which the expert group considered that a training curriculum should cover are listed in the annex, and are brought to the attention of the Commission for information.

14. To initiate preparation of a training guide that would be useful to all Governments, States would be requested to provide UNDCP with copies of their training manuals for maritime drug law enforcement and other related materials. They would also be requested to provide information by means of a questionnaire about their past and current training needs and capabilities. UNDCP was invited to compile a draft training guide with the assistance of consultants experienced in drafting training material on maritime law enforcement, and to convene a group of experts to assist in finalizing the guide. The UNDCP training guide would be made available, on request, in the six official languages of the United Nations, and would be disseminated to the competent authorities. UNDCP would request States to provide their international training schedules for the year, together with an indication of how many trainees from other States they could incorporate into their programmes. UNDCP was invited to publish a reference guide containing a summary of such information for the use of all States.

III. OTHER FORMS OF ASSISTANCE

16. The expert group recommended that UNDCP act as a catalyst for coordinating the efforts of Governments and international organizations in providing assistance in maritime drug law enforcement, particularly in legal matters. That could include the development of model legislation dealing with matters such as the exercise of jurisdiction over stateless vessels on the high seas; providing legal authority for stopping, boarding and searching vessels in accordance with article 17 of the 1988 Convention; and the collection, translation and distribution of relevant legislation, of bilateral and multilateral agreements, and of

national and international memoranda of understanding between States, agencies or other entities such as private companies.

17. UNDCP should consider undertaking missions to requesting States in order to conduct a thorough needs assessment, to properly identify the assistance and training required, particularly in the establishment or upgrading of ship registries, and to enable States to provide timely and reliable information. The use of existing communications networks should also be optimized, for example, by compiling and disseminating information about national and international agencies that support such networks.

Notes

[1]*Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

Annex

TRAINING CURRICULUM FOR MARITIME DRUG LAW ENFORCEMENT

1. The following themes should be elaborated and included in a training curriculum for maritime drug law enforcement:

(a) Policy, strategy and law;

(b) Training for policy managers in the development and implementation of a coherent enforcement strategy;

(c) Applicable laws and agreements, including the law of the sea, the 1988 Convention and national laws.

2. The procedures and techniques that should form the core of a training curriculum for maritime drug law enforcement could be dealt with under four broad headings: preliminary steps; surveillance; controlled delivery; and boarding and searching vessels. The four parts of the programme would cover the following matters:

(a) Preliminary steps:

(i) Analysis of risk profiles, with reference to available intelligence;

(ii) Determining strategy, e.g. surveillance, controlled delivery and rummage;*

(iii) Checking for any suspicious behaviour or characteristics of vessel or crew;

(iv) Seeking consent of the flag State for boarding and agreement on subsequent procedures should a seizure be made;

(b) Surveillance:

(i) Covert surveillance;

(ii) Data collection and analysis, including checking shipping documents if these are available;

(iii) Inter-agency and inter-State cooperation;

(c) Controlled delivery:

(i) Surveillance methods;

(ii) Inter-agency coordination;

(iii) Timing of interception;

(iv) Pre-boarding;

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*In this context, the term "rummage" means the thorough search of a vessel by customs officers.

(v) Action taken on the basis of recommendations of the Working Group concerning standard requests for boarding;

(vi) Analysis of intelligence from available sources, e.g. any central intelligence authority with jurisdiction, police records, local sources, the private sector;

(vii) Communication with the vessel as to the identity of the agency and its intention to board;

(viii) Techniques for stopping vessels prior to boarding;

(d) Boarding and searching vessels:

(i) Boarding methods;

(ii) Safety precautions during and after boarding;

(iii) Effective communications, e.g. with master and crew;

(iv) Assessment of situation on board;

(v) Review of ship's documents, including log and manifests;

(vi) Search procedures for different parts of the vessel;

(vii) Teamwork;

(viii) Equipment required for search;

(ix) Narcotics identification procedures and tools;

(x) Collection of evidence;

(xi) Restoration of vessel to original condition after search;

(xii) Post-seizure operations;

(xiii) Preparation of evidence for court hearing;

(xiv) Debriefing of officers;

(xv) Intelligence-gathering and -reporting.